

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

ALONZO DEMONT RICE

§

v.

§

CIVIL ACTION NO. 9:09cv120

GREGORY OLIVER, ET AL.

§

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
ON PLAINTIFF'S MOTIONS FOR INJUNCTIVE RELIEF

The Plaintiff Alonzo Rice, proceeding *pro se*, filed this civil rights lawsuit under 28 U.S.C. §1983 complaining of alleged violations of his constitutional rights. This Court ordered that the cases be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Rice has filed two motions for injunctive relief, saying that he is in danger and seeking a transfer. One of these motions relied in part on an investigation from May of 2008. Rice concedes that several life endangerment investigations have been done but says that he has received “false and trumped-up disciplinary cases.”

After review of the motions, the Magistrate Judge issued a Report on November 25, 2009, recommending that the motions for injunctive relief be denied. The Magistrate Judge noted that Rice did not show a substantial likelihood that he would prevail on the merits of his claims nor a substantial threat of irreparable injury; instead, he offered “little more than speculation and conclusory allegations” to support his requests for injunctive relief. Furthermore, the Magistrate Judge said, Rice did not show that his requested injunctive relief would not disserve the public interest, because of the level of interference called for in the internal operations of a state prison.

Rice filed two separate sets of objections to the Magistrate Judge's Report on December 8, 2009. In the first of these, docket no. 31, Rice indicates that he is still in danger, saying that he filed a grievance which Warden Oliver denied. He says that in November of 2009, other inmates began shouting threats to jump on him, and an offender protection investigation was done by Sgt. Wyatt. Rice again discusses a threatening letter which he received in June and insists that he is continuously being subjected to deliberate indifference regarding his safety.

In the second set of objections, Rice says that he is currently on psych medications and does not know how to file an amended complaint properly. He complains that he has not given the Magistrate Judge consent to rule on his claims and so any judgment entered is a "nullity." Rice does not refer to the Magistrate Judge's recommendation that his requests for injunctive relief be denied.

Rice's objections are without merit. His allegations are not sufficient to justify the extraordinary remedy of injunctive relief, nor to justify the interference with the internal operations of a state agency that such injunctive relief would entail. He concedes that an offender protection investigation was done, and the fact that he may disagree with the results of this investigation does not constitute grounds for the issuance of a temporary restraining order or preliminary injunction.

The Court has conducted a careful *de novo* review of the Plaintiff's motions for injunctive relief, the Report of the Magistrate Judge, and the Plaintiff's objections thereto. Upon such *de novo* review, the Court concluded that the Report of the Magistrate Judge is correct and that the Plaintiff's objections are without merit. It is accordingly

ORDERED that the Plaintiff's objections are overruled and that the Report of the Magistrate Judge (docket no. 28) is ADOPTED as the opinion of the District Court. It is further

ORDERED that the Plaintiff's motions for injunctive relief (docket no. 6 and 23) are hereby DENIED. So ORDERED and SIGNED this 18 day of December, 2009.



Ron Clark, United States District Judge